



ENVIRONMENTAL PROTECTION AGENCY

6560-50-P

40 CFR Part 52

[EPA-R08-OAR-2012-0352; FRL-9925-51-Region 8]

**Approval and Promulgation of Air Quality Implementation Plans; State of Montana
Second 10-Year Carbon Monoxide Maintenance Plan for Billings**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Montana. On July 13, 2011, the Governor of Montana's designee submitted to EPA a second 10-year maintenance plan for the Billings area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This maintenance plan addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. EPA is also approving an alternative monitoring strategy for the Billings CO maintenance area, which was submitted by the Governor's designee on June 22, 2012.

DATES: This final rule is effective [INSERT date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R08-OAR-2012-0352. All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Adam Clark, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7104, clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials CO mean or refer to carbon monoxide.
- (iii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.
- (iv) The initials NAAQS mean or refer to the National Ambient Air Quality Standards.
- (v) The initials SIP mean or refer to State Implementation Plan.
- (vi) The words Montana and State mean or refer to the State of Montana.

I. Background

Eight years after an area is redesignated to attainment, Clean Air Act (CAA) section 175A(b) requires the state to submit a subsequent maintenance plan to EPA, covering a second 10-year period.¹ This maintenance plan must demonstrate continued compliance with the NAAQS during this second 10-year period. On July 13, 2011, the Governor of Montana's designee submitted to EPA a second 10-year maintenance plan for the Billings area for the CO NAAQS.

Along with the revised Billings Maintenance Plan, the State submitted a CO maintenance plan for the Great Falls, Montana maintenance area, and an alternative strategy for monitoring continued attainment of the CO NAAQS in all of the State's CO maintenance areas on July 13, 2011.² The State submitted the alternative monitoring strategy in order to conserve resources by discontinuing the gaseous CO ambient monitors in both the Billings and Great Falls CO maintenance areas. We commented on the State's "Alternative Monitoring Strategy," and the State submitted a revised version of the strategy, which incorporated our comments on June 22, 2012.

In a document published on December 2, 2014, we proposed approval of the Billings second 10-year maintenance plan and the associated "Alternative Monitoring Strategy." (79 FR 71369)

II. Response to Comments

The comment period for our December 2, 2014 proposed rule was open for 30 days. We did not receive any comments on the proposed action.

¹ In this case, the initial maintenance period extended through 2012. Thus, the second 10-year period extends through 2022.

² In addition to Billings and Great Falls, the Missoula, MT CO maintenance area was included in the July 13, 2011 Alternative Monitoring Strategy.

III. Final Action

EPA is approving the revised Billings Maintenance Plan submitted on July 13, 2011. This maintenance plan meets the applicable CAA requirements and EPA has determined it is sufficient to provide for maintenance of the CO NAAQS over the course of the second 10-year maintenance period out to 2022.

EPA is also approving the State's Alternative Monitoring Strategy, submitted on June 22, 2012, for the Billings CO maintenance area. We are not approving application of the Alternative Monitoring Strategy in other areas of Montana with this action, as the Alternative Monitoring Strategy must be considered on a case-by-case basis specific to the circumstances of each particular CO maintenance area rather than broadly.

IV. Statutory and Executive Orders Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT date 60 days from date of publication of this document in the **Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 17, 2015.

Debra H. Thomas,
Acting Regional Administrator,
Region 8.

40 CFR part 52 is amended to read as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart BB - Montana

2. Section 52.1373 is amended by revising paragraph (b) to read as follows:

§52.1373 Control strategy: Carbon monoxide.

* * * * *

(b) Revisions to the Montana State Implementation Plan, revised Carbon Monoxide Maintenance Plan for Billings, as submitted by the Governor's Designee on July 13, 2011, and the associated Alternative Monitoring Strategy for Billings, as submitted by the Governor's Designee on June 22, 2012.

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